IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 19772 of 2004

Between:

M. Mainabai, w/o Megavath Vijay singh, R/o H.No. 17/A, Rajeevgandhi Nagar, Borabanda, Kukatpalli Municipality, Kukatpalli, Balanagar Mandal, R.R. District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Principle Secretary, Secretariat, Hyderabad.
2 The Collector & District Magistrate, Ranga Reddy District.
3 The Superintendent, Central Prison, Chenchalguda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Habeas Corpus directing the respondents to produce the detenu Megavath Vijay Singh S/o Prathap Singh, aged about 30 years, R/o H.No. 17/A, Rajeevgandhi Nagar, Borabanda, Kukatpalli Municipality, Kukatpalli, Balnagar Mandal, R.R. District now detained in Central Prison, Hyderabad, before this Hon'ble Court may be released forthwith after declaring the order of detention dt. 19-8-2004 made in No. C1/5396/2004 made under order Sub Section (2) of Section 3 of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers, Act 1986 (Act No.1 of 1986) passed by the Collector & District Magistrate, R.R. District, which was approved by the Govt. of A.P. vide G.O.Rt. No. 3100 of General Administration (Law & Order-II) Department, dt. 14-6-2004

Counsel for the Petitioner: MR.K.BUCHI BABU

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following:

ORAL ORDER: (BY GB,J.)

The Writ Petition is filed challenging the order of detention passed by the Collector and District Magistrate, Ranga Reddy District-first respondent vide proceedings No.C1/5396/2004 dated 19-8-2004.

2. The Collector passed the orders of detention by virtue of the provisions contained under Section 3 of the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, (Act No.1 of 1986).

3. In support of the order of detention as many as 10 grounds were supplied. The said order came to be challenged before this Court. At the threshold the learned counsel for the detenu submits that in the order of detention the detaining authority did not inform the detenu that he has a right of representation to detaining authority. On this ground alone the detention order is liable to be set aside. He relies on the decision of this Supreme Court in W.P.Nos.19636, 19637 and 19674 of 2004 dated 11-11-2004.

4. We have heard the learned counsel for the detenu and the learned Advocate General.

5. It is true that the detaining authority did not inform the detenu that he has a right of representation to the detaining authority which is violation of Article 22(b) of the Constitution of India. Admittedly, in this case we find that the detenu has not been put on notice about his representation to the detaining authority. Thus, we find that the detention order is not sustainable and accordingly set aside.

6. In the result, the Writ Petition is allowed and the order of detention dated 19-8-2004 passed by the first respondent is hereby quashed and the detenu shall be set

at liberty forthwith, if he is not required in any other case.

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(G. BIKSHAPATHY, J.)

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(CH.S.R.K. PRASAD, J.)

Date: 19-11-2004

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That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this **Friday the Nineteenth day of November Two thousand and Four.**

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ASSISTANT REGISTRAR

To.

1 The Principle Secretary, Government of Andhra Pradesh, Secretariat, Hyderabad.
2 The Collector & District Magistrate, Ranga Reddy District.
3 The Superintendent, Central Prison, Chenchalguda, Hyderabad.

4. 2 CCs to the Advocate General, High Court of A.P., Hyderabad (OUT).

5. 2 CD copies.